

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

JOHN DOE #1, an individual, JOHN  
DOE #2, an individual, and PROTECT  
MARRIAGE WASHINGTON,

Plaintiffs,

v.

SAM REED, in his official capacity as  
Secretary of State of Washington,  
BRENDA GALARZA, in her official  
capacity as Public Records Officer for the  
Secretary of State of Washington,

Defendants.

NO. 09-cv-05456-BHS

ANSWER

As and for an Answer to the Verified Complaint for Declaratory and Injunctive Relief  
filed in this matter by the Plaintiffs, the Defendants admit, deny, and allege as follows:

**INTRODUCTION**

1. Paragraph 1 of the Complaint summarizes the nature of the case and requires no  
specific answer.

2. Paragraph 2 is argument about questions of law and requires no answer. Paragraph 2 accurately quotes passages of case law out of context. To the extent an answer is required, Paragraph 2 is denied.

3. Paragraph 3 is denied.

4. In response to Paragraph 4, the Defendants admit that the paragraph accurately summarizes the nature of the Plaintiffs' Complaint, and otherwise deny Paragraph 4.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is admitted.

8. In response to Paragraph 8, the Defendants admit that the Western District of Washington is a proper venue for this case. The Defendants admit that the Defendants reside in this district, and that the capital of the state of Washington lies within the district. The Defendants have no knowledge as to the place of business of Protect Marriage Washington or as to the residence of Plaintiffs John Doe #1 and #2, and therefore deny these allegations.

## PARTIES

9. Defendants have no knowledge as to the facts alleged in Paragraph 9 of the Complaint, and therefore deny them.

10. Defendants have no knowledge as to the facts alleged in Paragraph 10 of the Complaint, and therefore deny them.

11. In response to Paragraph 11, the Defendants admit that Plaintiff Protect Marriage Washington is an organization involved with circulating petitions to place

1 Referendum Measure No. 71 on the November 2009 ballot. Defendants have no knowledge  
2 as to the remaining allegations in Par. 11, and therefore deny them.

3 12. Paragraph 12 is admitted.

4 13. Paragraph 13 is admitted.

### 6 **FACTS**

7 14-17. Paragraphs 14 through 17 consist of a summary of law and require no answer.  
8 Paragraph 14 is a reasonably accurate summary of Washington constitutional law concerning  
9 the referendum power.

10 15-17. Paragraphs 15, 16, and 17 are a reasonably accurate summary of portions of  
11 article II, § 1, of the Washington State Constitution. The laws concerning the exercise of the  
12 referendum power are more completely set forth in the state constitution and in related state  
13 statutes.

14  
15 18. Paragraph 18 is a summary of the facts relating to the introduction of Senate  
16 Bill 5688 in the 2009 Session of the State Legislature. The legislative history of the bill is a  
17 matter of official record. Beyond what the official record demonstrates, Defendants deny the  
18 allegations of Paragraph 18.

19  
20 19-20. Paragraphs 19 and 20 describe the passage of Engrossed Second Substitute  
21 Senate Bill 5688 in the Washington State Legislature. The history of the bill is a matter of  
22 official record. Apart from what the official record demonstrates, Defendants deny  
23 Paragraph 20.

24 21. Paragraph 21 is admitted.

1           22. In response to Paragraph 22, the Defendants have no knowledge as to when  
2 Protect Marriage Washington organized, and therefore deny such allegations.

3           23. In response to Paragraph 23, the Defendants admit that Protect Marriage  
4 Washington was active in circulating petitions in support of Referendum Measure No. 71,  
5 but have no knowledge of the remaining allegations, and therefore deny them.  
6

7           24. Paragraph 24 is admitted.

8           25-31. The Defendants have no knowledge as to the allegations contained in  
9 Paragraphs 25 through 31, and therefore deny them.

10          32. Paragraph 32 is admitted.

11          33. In response to Paragraph 33, the Defendants have no knowledge concerning  
12 threats by a group called "WhoSigned.org", and therefore deny the allegations in Paragraph  
13 33.  
14

15          34. Paragraph 34 is a description of the beliefs of the Plaintiffs, speculating about  
16 the intentions of a third party, and requires no answer. To the extent an answer is required,  
17 Defendants deny Paragraph 34.

18          35. In response to Paragraph 35, the Defendants admit that Exhibit 4, attached to the  
19 Complaint, is an accurate copy of a blog posted by David Ammons on a website managed by  
20 the Defendant Secretary of State, dated June 2, 2009.  
21

22          36-39. The Defendants have no knowledge concerning the allegations in Paragraphs  
23 36 through 39, and therefore deny them.

24          40. In response to Paragraph 40, the Defendants admit that petitions containing  
25 signatures in support of Referendum Measure 71 were submitted to the Secretary of State on  
26

1 July 25, 2009, and that the Secretary subsequently verified and confirmed that sufficient  
2 valid signatures were submitted to qualify Referendum Measure 71 for the November 2009  
3 state election ballot.

4 41. In response to Paragraph 41, the Defendants admit that one effect of submitting  
5 sufficient signatures to qualify Referendum Measure 71 is that the effective date of  
6 Engrossed Second Substitute Senate Bill 5688 has been suspended. If the bill is approved by  
7 the voters in November, the bill will take effect after the election as provided in the  
8 Washington State Constitution.  
9

10 42. Paragraph 42 is a summary of portions of the law concerning the processing of  
11 referendum petitions, which law speaks for itself. To the extent an answer is required,  
12 Defendants deny the allegations of Paragraph 42.  
13

14 43-44. The Defendants have no knowledge concerning the allegations in Paragraphs  
15 43 and 44, and therefore deny them.

16 45. Paragraph 45 is admitted.

17 46-49. Paragraphs 46 through 49 are denied.

## 18 LEGAL ARGUMENTS

19 50-60. Paragraphs 50 through 60 consist entirely of legal argument, and require no  
20 responsible pleading. The Defendants deny that Paragraphs 50 through 60 accurately  
21 summarize the law.  
22

## 23 COUNT I

24 61. Paragraph 61 requires no response.

25 62. Paragraph 62 is denied.  
26

1           63. Paragraph 63 is a prayer for relief. The Defendants oppose each and every item  
2 of relief requested in Paragraph 63.

3  
4                                   **COUNT II**

5           64. Paragraph 64 requires no response.

6           65. Paragraph 65 is denied.

7           66. Paragraph 66 is a prayer for relief. The Defendants oppose each and every item  
8 of relief requested in Paragraph 66.

9                                   **PRAYER FOR RELIEF**

10       WHEREFORE, Defendants Reed and Galarza request that the Court:

- 11           a. Deny the Plaintiffs' requested declaratory relief;  
12           b. Deny the injunctive relief, costs, and fees requested by the Plaintiffs;  
13           c. Grant the Defendants their costs and attorney fees under 42 U. S. C. § 1988 and  
14 any other applicable law; and  
15           d. Grant any other relief as may be just and equitable.

16       DATED this 28th day of September, 2009.

17  
18  
19                                   ROBERT M. MCKENNA  
20                                   Attorney General

21                                   s/ James K. Pharris  
22                                   JAMES K. PHARRIS, WSBA #5313  
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CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2009, I electronically filed an Answer in the above-referenced case with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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s/James K. Pharris  
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